

AGREEMENT ON ACCEPTANCE OF SERVICE

To facilitate and assure timely service of process and to provide adequate time to answer civil complaints filed by in forma pauperis litigants and habeas corpus petitions under 28 U.S.C. § 2254, the Clerk of Court of the United States District Court for the District of Maine and the Attorney General of the State of Maine agree to the following procedures. This agreement addresses cases in which the United States District Judge or Magistrate Judge determines that service documents are to issue when a plaintiff has been granted in forma pauperis status in a civil action involving the State of Maine or its employees and in all cases where a petitioner has filed a habeas corpus petition under 28 U.S.C. § 2254, regardless of whether or not the filing fee has been paid.

1. General Provisions

- A. At case opening, the case manager will add an appropriate entity specified by the Attorney General as a "Notice Only Party" to the court's Case Management and Electronic Case Filing System (CM/ECF). The Attorney General's Office will thereby receive electronic notice of all case filings and activity, including the case initiating documents, to any e-mail accounts specified by that office in their "Notice Only" designation. If the Attorney General ultimately enters an appearance on behalf of one or more defendants in the case, the "Notice Only Party" will be terminated and the attorney/(s) who enters his/her appearance will be designated as the counsel to whom notice is sent.
- B. These procedures shall take effect for any case filed after May 1, 2009, and remain in effect until terminated by the Attorney General or the Clerk.

2. Habeas Corpus Petitions

Pursuant to the Rules 4 and 5 Governing § 2254 Cases, following preliminary review by the Court, the respondent is only required to answer or otherwise respond to the petition if ordered to do so by the court. In its order the Court will fix the time by which response must be made, normally allowing 60 days. The Attorney General agrees that entry of the order to respond on the docket by the clerk complies with the requirement of service of the petition on the respondent, the Attorney General, or other appropriate officer and will accept service of the same.

3. Prisoner IFP Complaints wherein Maine Employees and/or the Department of Corrections are Defendants

A. Pursuant to 28 U.S.C. § 1915A all prisoner complaints will be subject to mandatory screening before the Court will order service of complaint. The Attorney General shall file no pleadings in the case until after the Court completes its preliminary review. If the Court determines that the complaint should be served, the clerk will enter the following notice on the docket:

NOTICE: The court has completed its preliminary review and ordered the complaint to be served. Pursuant to the Agreement on Service between the Clerk of Court and the Maine Attorney General, this Notice constitutes service as directed by the court. The Maine Attorney General shall file notice of acceptance or declination of acceptance of service within thirty (30) days.

A. If service is accepted, it shall constitute both proof of service and acceptance of service under Federal Rule of Civil Procedure 4, and the clerk shall commence the 60 day answer period from the date the Notice was entered on the docket, as though service had been made by mailing a

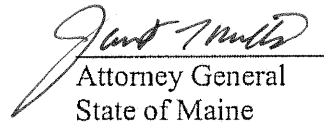
request for a waiver to the defendant pursuant to the provisions of Federal Rule of Civil Procedure 4(d)(3).

- B. If service is declined, the Attorney General, shall to the extent able, explain the reason for declination, e.g., the defendant is no longer employed by the State of Maine, there is a conflict of interest, or the defendant has declined representation by the Attorney General. A notice of acceptance or declination of service shall be filed in every case where the Attorney General has been listed as a "Notice Only Party."
 - C. In those cases where service is declined, the Court shall immediately order in-hand service by the United States Marshals Service on behalf of any indigent prisoner and shall further order the Attorney General to provide the last known address of the defendant to the United States Marshals Service to be used only for the purpose of attempting to effectuate in-hand service.
 - D. If the Court determines that a shortened response time is required because the plaintiff has filed a preliminary motion for injunctive relief, or for any other reason requiring an expedited response, it shall notify the Attorney General of any shortened response date by a specific order.
- 4. Nonprisoner IFP cases wherein Maine Employees and/or Maine Agencies or Departments are Defendants**
- A. The Attorney General shall file no pleadings in a non-prisoner IFP case until after the Court issues an order on the plaintiff's IFP status. If the plaintiff is granted IFP status and service documents are to issue, the clerk will enter the following notice on the docket:

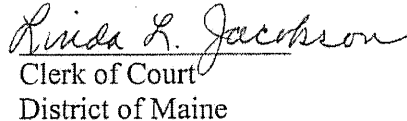
NOTICE: The court has granted IFP status and ordered the complaint to be served. Pursuant to the Agreement on Service between the Clerk of Court and Maine Attorney General, this Notice constitutes service as directed by the court. The Maine Attorney General shall file notice of acceptance or declination of acceptance of service within thirty (30) days.

- B. Following entry of the Notice, the procedures applicable to prisoner IFP cases, outlined above, shall apply.

DATE: 4/27/09


Attorney General
State of Maine

DATE;
April 27, 2009


Clerk of Court
District of Maine